

## **BILL ANALYSIS**

C.S.H.B. 533  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

When the Texas Legislature amended statutory provisions relating to rendition statements to establish a penalty for the failure to render personal property held for the production of income, the enacted legislation set the penalty at 10 percent of the taxes due for a late rendition and at 50 percent of the taxes due for a fraudulent rendition.

Under the current procedures for contesting the penalty for a late rendition, the chief appraiser reviews each rendition and, on a determination that a rendition was not timely filed, imposes a penalty. The chief appraiser certifies the penalty to the taxing unit, and the taxing unit includes the penalty on the tax bill for that year. This is the first notice a taxpayer has that a penalty has been imposed. The taxpayer then must file with the chief appraiser a written request for waiver of the penalty within 30 days of receipt of the tax bill. If the chief appraiser does not agree to waive the penalty, the taxpayer may file a protest with the appraisal review board.

This process is contrary to the normal protest process in which a taxpayer has the opportunity to seek an appraisal review board determination before a chief appraiser's decision becomes effective. The result is that taxpayers often are required to pay penalties that ultimately are rescinded after an explanation is provided to the chief appraiser or the appraisal review board.

C.S.H.B. 533 changes the procedures for protesting the imposition of the penalty so that those procedures are consistent with protest procedures applicable to all other protests under state tax law.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 533 amends the Tax Code to establish that a person is not required to render for taxation personal property appraised if the real property is appraised by a method that takes into account the value of furniture, fixtures, and equipment. The bill requires the chief appraiser to deliver to a person who fails to timely file a rendition statement or property report a notice, by first class mail, of the imposition of a penalty for that failure to file the statement or report. The bill authorizes delivery of the notice with a notice of appraised value, if practicable. The bill requires the chief appraiser to certify to the assessor for each taxing unit participating in the appraisal district that imposes taxes on the property that such a penalty imposed has become final, rather than that the chief appraiser has imposed a penalty. The bill establishes that a penalty becomes final if the property owner does not protest the imposition of the penalty before the appraisal review board; the appraisal review board determines a property owner's protest by denying a waiver of the penalty and either the property owner does not appeal or the judgment of the district court sustaining the determination subsequently becomes final; or a court imposes the penalty and the order of the court imposing the penalty subsequently becomes final.

C.S.H.B. 533 changes the deadline for submitting a request for a waiver of the penalty from not later than the 30th day after the date the person received notification of the imposition of the penalty to before June 1 or not later than the 30th day after the date the person received notification of the imposition of the penalty, whichever is later. The bill requires the chief appraiser, if the chief appraiser denies the penalty waiver request, to deliver by first class mail written notice of the denial to the property owner. The bill authorizes the property owner to protest the imposition of the penalty before the appraisal review board. The bill requires the property owner, to initiate a protest, to file written notice of the protest with the appraisal review board before June 1 or not later than the 30th day after the date the property owner receives the notice of denial, whichever is later. The bill requires the chief appraiser, in making a determination of the waiver request, and the appraisal review board, in determining a subsequent protest of the penalty's imposition, to consider the same set of factors.

C.S.H.B. 533 establishes that the procedures for a protest before the appraisal review board regarding a denial of a penalty waiver request are governed by the procedures governing a taxpayer protest of other actions by the chief appraiser, appraisal district, or appraisal review board that apply to or adversely affect the property owner and entitles the property owner to appeal an order of the appraisal review board determining a protest of such denial. The bill authorizes the chief appraiser and a protesting property owner to enter into a settlement agreement on the matter being protested, if both parties agree that there was a mistake.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 533 contains a provision not included in the original establishing that a person is not required to render for taxation personal property appraised under provisions relating to the inclusion of the value of furniture, fixtures, and equipment in the appraisal of real property.

C.S.H.B. 533 differs from the original by amending the heading to Section 22.28, Tax Code, to reflect the addition of statutory provisions for penalty collection procedures. The substitute differs from the original, in provisions requiring the chief appraiser to provide notice of the imposition of a penalty, by requiring the chief appraiser to send the notice by first class mail, whereas the original specifies delivery by certified mail. The substitute contains a provision not included in the original authorizing delivery of that penalty notice with a notice of appraised value, if practicable.

C.S.H.B. 533 differs from the original by specifying that a penalty becomes final if the property owner does not protest the penalty's imposition before the appraisal review board, the board determines the protest by denying the waiver and the property owner does not appeal or a district court's judgment sustaining the determination becomes final, or a court order imposing the penalty becomes final, whereas the original specifies that a penalty becomes final if not timely protested, an appraisal review board order has been issued, or a court imposes the penalty.

C.S.H.B. 533 differs from the original by retaining a statutory requirement for a collector who collects a penalty to remit to the appraisal district an amount equal to five percent of the penalty amount collected to help defray certain administrative costs, whereas the original removes that requirement.

C.S.H.B. 533 omits a provision contained in the original repealing Section 22.29(d), Tax Code, relating to the distribution of collected penalties.

C.S.H.B. 533 omits a provision contained in the original transferring the authority to waive a

penalty from the chief appraiser to the appraisal review board and removing a corresponding requirement for the chief appraiser to make a determination of the penalty waiver request. The substitute omits a provision contained in the original amending a statutory requirement that a written request for a waiver to be sent to the chief appraiser to instead require a notice of protest to be filed with the appraisal review board.

C.S.H.B. 533 contains a provision not included in the original changing the deadline for submitting a request for a waiver of the penalty from not later than the 30th day after the date the person received notification of the imposition of the penalty to before June 1 or not later than the 30th day after the date the person received notification of the imposition of the penalty, whichever is later. The substitute contains a provision not included in the original requiring the chief appraiser, in making a determination of the waiver request, to consider the same set of factors considered in a determination of the protest.

C.S.H.B. 533 contains a provision not included in the original requiring the chief appraiser, if the chief appraiser denies the penalty waiver request, to deliver written notice of the denial to the property owner, authorizing the property owner to protest the imposition of the penalty before the appraisal review board, and establishing a procedure and a deadline for initiating a protest.

C.S.H.B. 533 differs from the original by establishing that the procedures for a protest before the appraisal review board regarding a denied penalty waiver request are governed by the procedures for a taxpayer protest under Subchapter C, Chapter 41, which govern a taxpayer protest of other actions by the chief appraiser, appraisal district, or appraisal review board that apply to or adversely affect the property owner, whereas the original establishes that appraisal review board hearing procedures for a protest regarding the waiver of a penalty are governed by procedures set forth in Chapter 41 generally. The substitute differs from the original by entitling a property owner to appeal an order of the appraisal review board determining a protest, whereas the original authorizes an appeal to district court of a denial of a protest.

C.S.H.B. 533 contains a provision not included in the original authorizing the chief appraiser and a protesting property owner to enter into a settlement agreement on the matter being protested, if both parties agree that there was a mistake.

C.S.H.B. 533 contains a transition provision not included in the original and differs from the original in a nonsubstantive grammatical construction in the effective date provision.